IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 5424 of 2007(U)

OA.56/2005 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONERS:

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1. M.K.SHAJI, AGED ABOUT 30 YEARS,
   S/O.M.O.KUMARAN, PROPRIETOR, M.O.K.AGENCIES,
   SANTHAMPARA, NOW R/AT MUTTANCHERIYIL HOUSE,
   SANTHANPARA P.O., IDUKKI DISTRICT.

2. M.O.KUMARAN, AGED ABOUT 58 YEARS,
   NOW R/AT MUTTANCHERIYIL HOUSE,
   SANTHANPARA P.O., IDUKKI DISTRICT.

BY ADV. SRI.TOM JOSE

RESPONDENTS:

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1. THE SOUTH INDIAN BANK LTD.,
   CHINNAKANAL BRANCH.

2. THE DEBTS RECOVERY TRIBUNAL
   (KERALA AND LAKSHADWEEP), 8TH FLOOR,
   KSHB BUILDING, PANAMPILLY NAGAR,
   COCHIN-682 036.

3. THE RECOVERY OFFICER, OFFICE OF THE
   RECOVERY OFFICER, DRT (KERALA AND
   LAKSHADWEEP), 8TH FLOOR, KSHB BUILDING,
   PANAMPILLY NAGAR, COCHIN-682 036.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

WP(C).No.5424 of 2007-U

Dated this the 19th day of February, 2007.

JUDGMENT

The petitioners have approached this court feeling aggrieved by Exts.P5 notice of demand and Ext.P6 proclamation of sale published by the 3rd respondent Recovery Officer on the strength of Ext.P3 order which has become final. The petitioners submit, they have filed Ext.P7 application before the first respondent bank to extend them the facility of one-time-settlement. But, the bank is not coming forward for settlement and the sale will take place today. Hence, this writ petition seeking appropriate reliefs.

2. Since the first respondent is a private sector bank, this court cannot issue any writ against it. This court can consider the validity of Exts.P5 and P6 which are proceedings issued by the 3rd respondent. Since they are issued based on Ext.P3 order, I find no jurisdictional error warranting interference with them under Article 226 of the Constitution of India.

Accordingly, the Writ Petition is dismissed. If the petitioners have other remedies against the first respondent, the same will not be affected by the dismissal of this writ petition.

K.BALAKRISHNAN NAIR,
JUDGE.

MS